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EXTRAORDINARY

PART II—Section 1

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MINISTRY OF LAW

New Delhi, the 29th December, 1956

The following Acts of Parliament received the assent of the President on the 28th December, 1956, and are hereby published for general information:—

THE STANDARDS OF WEIGHTS AND MEASURES
ACT, 1956

No. 89 of 1956

[28th December, 1956]

An Act to establish standards of weights and measures based on the metric system

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

1. (1) This Act may be called the Standards of Weights and Measures Act, 1956.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date, not being later than ten years from the passing of this Act, as the Central Government may, by notification in the Official Gazette, appoint; and different dates may be appointed for different provisions of this Act or for different areas or for different classes of undertakings or for different classes of goods.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) “First General Conference of Weights and Measures” means the Conference Generale des poids et Mesures held at Paris in 1889;

(b) "International Bureau of Weights and Measures" means the Bureau Internationale des poids et Mesures at Sevres in France;

(c) "kilogram" means the mass of the platinum-iridium cylinder deposited at the International Bureau of Weights and Measures and declared international proto-type of the kilogramme by the First General Conference of Weights and Measures;

(d) "metre" means the distance, at zero degree centigrade and under normal atmospheric pressure, between the axes of the two median lines traced on the platinum-iridium bar deposited at the International Bureau of Weights and Measures and declared international proto-type of the metre by the First General Conference of Weights and Measures;

(e) "normal atmospheric pressure" means the pressure exercised by 101325 newtons per square metre, a newton being the force which imparts to a mass of one kilogram an acceleration of one metre per second per second.

Primary unit
of length.

3. (1) The primary unit of length shall be a metre.

(2) For the purpose of deriving the value of the metre, the Central Government shall cause to be prepared a national proto-type of the metre and shall cause the same to be certified in terms of the international proto-type of the metre and shall deposit the same in such custody and at such place as the Central Government may think fit.

Primary unit
of mass and
standard unit
of weight.

4. (1) The primary unit of mass shall be a kilogram.

(2) For the purpose of deriving the value of kilogram, the Central Government shall cause to be prepared a national proto-type of the kilogram and shall cause the same to be certified in terms of the international proto-type of kilogramme and shall deposit the same in such custody and at such place as the Central Government may think fit.

(3) Notwithstanding anything contained in sub-section (1) of this section and section 12, the primary unit of mass for precious stones shall be a carat which is equal to one-five-thousandth of one kilogram.

(4) The standard unit of weight at any place shall be the weight of the primary unit of mass at that place.

Unit of time.

5. (1) The primary unit of time shall be a second.

(2) A second means $1/31,556,925.975$ of the length of the tropical year for 1900.0, the year commencing at 12.00 hours universal time on the 1st day of January, 1900.

6. (1) The unit of electric current shall be an ampere.

Unit of
electric
current.

(2) An ampere means that constant current which, flowing in two parallel straight conductors of infinite length, of negligible circular cross section and placed at a distance of one metre from each other in vacuum, produces a force of 2×10^{-7} newtons per metre length between the conductors.

7. The scale of temperature shall be the centigrade scale otherwise known as celsius where the temperature, under normal atmospheric pressure, is taken to be zero degree at the melting point of ice and one hundred degrees at the boiling point of water.

Scale of
temperature.

8. (1) The unit of luminous intensity shall be the candela.

Unit of
luminous
intensity.

(2) A candela means one-sixtieth part of luminous intensity normally emitted by one centimetre square of integral radiator (black body) at the temperature of solidification of platinum.

9. The primary unit of area shall be the square metre.

Primary unit
of area.

10. The primary unit of volume shall be the cubic metre.

Primary unit
of volume.

11. The unit of capacity shall be a litre which is the volume occupied by the mass of one kilogram of pure air-free water at the temperature of its maximum density and under normal atmospheric pressure.

Unit of
capacity.

12. The Central Government may, by notification in the Official Gazette, declare in relation to the units of mass and measures referred to in sections 3 and 4 and sections 9 to 11, both inclusive, the magnitude and denominations of such units of mass and measures as it thinks fit to be the secondary units of mass and measures under this Act:

Secondary
units of mass
and
measures.

Provided that every such secondary unit shall be an integral power of ten (positive or negative) of any one of such units.

13. (1) The units of mass and measures referred to in sections 3 and 4 and sections 9 to 11, both inclusive, and the secondary units of mass and measures declared under section 12 shall be the standards of mass and measures.

Standards of
mass and
measures.

(2) No unit of mass or measure other than the units of mass and measures referred to in sub-section (1) shall be used as a standard mass or measure.

Continuance
of certain
weights and
measures
during
transitional
period.

14. (1) Notwithstanding that this Act has come into force in respect of any area or class of goods or undertakings, the Central Government may, by notification in the Official Gazette, permit the continuance of the use, after such commencement, in respect of that area or class of goods or undertakings, of such weights and measures, in addition to the standards of mass and measures and for such period, not exceeding three years, as may be specified in the notification.

(2) Nothing in sub-section (1) shall be deemed to empower the Central Government to issue any such notification in respect of any weight or measure which was not in use immediately before the commencement of this Act.

Sets of stan-
dards of
mass and
measures.

15. (1) The Central Government shall cause to be prepared as many sets as it may deem necessary of such standards of mass and measures referred to in section 13 or multiples or sub-multiples thereof as the Central Government may consider expedient, and shall cause each mass and measure of such set to be authenticated as having been ascertained from the primary units of mass or measure, as the case may be.

(2) The Central Government shall supply to each of the State Governments as many such sets as it may deem fit.

Conversion
of existing
weights and
measures
into standard
mass and
measures.

16. (1) The value expressed in terms of any weight set forth in sub-section (1) of section 3 of the Standards of Weight Act, 1939,^{9 of 1939.} or in terms of any measure expressed in inches, feet, yards or miles or in gallons may be converted into the value expressed in terms of a standard mass or measure at the rates specified in the First Schedule.

(2) The Central Government may, by notification in the Official Gazette, specify the rates at which the value expressed in terms of any weight or measure other than those referred to in sub-section (1) may be converted into the value expressed in terms of a standard mass or measure.

(3) All references in any enactment or in any notification, rule or order under any enactment or in any contract, deed or other instruments to a value expressed in terms of any weight or measure other than those of a standard mass or measure shall be construed as references to that value expressed in terms of a standard mass or measure, as the case may be, converted thereto at the rates specified in the First Schedule or in the notification issued under sub-section (2), as the case may be.

(4) Where in any transaction the value expressed in terms of any weight or measure is required to be converted into that value expressed in terms of a standard mass or measure under this section, the calculation, for the purposes of such transaction, shall be made in such manner as may be prescribed by rules.

17. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act. ^{Power to make rules.}

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the preparation of the standards of mass and measures under section 15;

(b) the custody of the set of standards of mass and measures which are to be maintained by the Central Government and the periodical verification and adjustment thereof;

(c) the periodical verification and adjustment of sets of standards of mass and measures supplied to the State Governments;

(d) the limits of error which may be tolerated in the standards of mass and measures when they are manufactured for being used, or are being used, in transactions generally, or in any class of transactions in particular;

(e) the manner in which the value expressed in terms of any weight or measure other than in terms of a standard mass and measure may be converted thereto; and

(f) any other matter which has to be, or may be, prescribed.

(3) All rules made under this Act shall be laid for not less than thirty days before both Houses of Parliament as soon as possible after they are made, and shall be subject to such modifications as Parliament may make during the session in which they are so laid or the session immediately following.

2 of 1889,

9 of 1939.]

18. (1) The Measures of Length Act, 1889, and the Standards of Weight Act, 1939, are hereby repealed. ^{Repeal.}

(2) The enactments specified in the Second Schedule shall, to the extent to which they contain any provision which corresponds to any provision of this Act, stand repealed.

(3) If, immediately before the commencement of this Act or any provision thereof in respect of any area or class of goods or under-

takings, there is in force in respect of that area or class of goods or undertakings, any law which corresponds to this Act or to any provision thereof and which is not repealed by sub-section (1) or sub-section (2), that corresponding law shall stand repealed.

THE FIRST SCHEDULE

[See section 16(1)]

STANDARDS OF WEIGHT

1 grain	=	0.00004799	kilogram.
1 ounce	=	0.0283495	kilogram.
1 pound	=	0.4535924	kilogram.
1 cwt.	=	50.802	kilograms.
1 ton	=	1016.05	kilograms
1 tola	=	0.0116638	kilogram.
1 seer	=	0.93310	kilogram.
1 maund	=	37.3242	. kilograms.

STANDARDS OF LENGTH AND CAPACITY

1 inch	=	0.0254	metre (exact).
1 foot	=	0.3048	metre (exact).
1 yard	=	0.9144	metre (exact).
1 mile	=	1609.344	metres (exact).
1 imperial gallon.	=	4.54596	litres.

THE SECOND SCHEDULE

[See section 18(2)]

1. The Assam Adoption of Standard Weights Act, 1955 (IX of 1955).
2. The Bhopal State Weights and Measures Act, 1953 (XV of 1953).
3. The Bihar Weights Act, 1947 (XVII of 1947).
4. The Bombay Weights and Measures Act, 1932 (XV of 1932).
5. The Central Provinces and Berar Weights and Measures of Capacity Act, 1928 (II of 1928).
6. The Cochin Weights and Measures Act, 1112 (LXIII of 1112).
7. The Coorg Act, 1954 (VII of 1954).
8. The Hyderabad Weights and Measures Act, 1356 Fasli (XIV of 1356 Fasli).
9. The Madhya Bharat Weights Act, 1954 (21 of 1954).

10. The Madras Weights and Measures Act, 1948 (XXII of 1948), as in force in the State of Madras or of Andhra.
11. The Mysore Weights and Measures Act, 1902 (III of 1902).
12. The Orissa Weights and Measures Act, 1943 (VII of 1943).
13. The Punjab Weights and Measures Act, 1941 (XII of 1941).
14. The Rajasthan Weights and Measures Act, 1954 (XIX of 1954).
15. The Travancore Weights and Measures Act, 1085 (VI of 1085).
16. The United Provinces Weights and Measures Act, 1947 (XXIII of 1948).

THE FARIDABAD DEVELOPMENT CORPORATION ACT, 1956

No. 90 of 1956

[28th December, 1956]

An Act to provide for the establishment and regulation of a trading Corporation for the purpose of carrying on and promoting trade and industry in the town of Faridabad, assisting in the rehabilitation of displaced persons settled therein and for matters connected therewith.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. This Act may be called the Faridabad Development Corporation Act, 1956. Short title.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Corporation" means the Faridabad Development Corporation established under section 3;

(b) "displaced person" means any person who, on account of the setting up of the Dominions of India and Pakistan or on account of civil disturbances or the fear of such disturbances in any area now forming part of Pakistan, has, after the 1st day of March, 1947, left, or been displaced from, his place of residence in such area and who has been subsequently residing in India;

(c) "Faridabad" means the new township at Faridabad in the district of Gurgaon in the State of Punjab, the area of which is described in the Schedule;

(d) "member" means a member of the Faridabad Development Corporation and includes its Chairman;

(e) "prescribed" means prescribed by rules made under this Act.

CHAPTER II

ESTABLISHMENT OF THE CORPORATION

Incorporation.

3. (1) With effect from such date as the Central Government may, by notification in the Official Gazette, appoint in this behalf, there shall be established a Corporation by the name of the Faridabad Development Corporation.

(2) The said Corporation shall be a body corporate having perpetual succession and a common seal, and shall by the said name sue and be sued.

Constitution of the Corporation.

4. The Corporation shall consist of a Chairman and such other members, being not less than four and not more than eight, as the Central Government may, by notification in the Official Gazette, appoint.

Term and conditions of service of members.

5. (1) The term of office and conditions of service of the Chairman and other members shall be such as may be prescribed.

(2) The Chairman or any other member may resign his office by writing under his hand addressed to the Central Government, but he shall continue in office until the appointment of his successor is notified in the Official Gazette.

(3) A casual vacancy created by the resignation of the Chairman or any other member under sub-section (2) or for any other reason shall be filled by fresh appointment.

Disqualification for being appointed, or for continuing as, member of the Corporation.

6. A person shall be disqualified for being appointed or for continuing as a member of the Corporation if he has, directly or indirectly, any interest in a subsisting contract made with, or in any work being done for, the Corporation except as a shareholder (other than a director) in an incorporated company:

Provided that where he is a shareholder, he shall disclose to the Central Government the nature and extent of shares held by him in such company.

7. If any member of the Corporation is by infirmity or otherwise rendered temporarily incapable of carrying out his duties or is absent on leave or otherwise in circumstances not involving the vacation of his appointment, the Central Government may appoint another person to act in his place during his absence.

Temporary absence of any member.

8. No act or proceeding of the Corporation shall be invalid by reason only of the existence of any vacancy amongst its members or any defect in the constitution thereof.

Vacancies among members or defect in the constitution not to invalidate act or proceedings of the Corporation.

9. The Corporation may constitute such committees for general or special purposes as the Corporation deems necessary to carry out the purposes of this Act.

Committees of the Corporation.

10. (1) The Corporation shall meet for the transaction of business at such times and places as may be prescribed:

Meetings of the Corporation.

Provided that the Chairman may, whenever he thinks fit, and shall, upon the written requisition of not less than two members, call a special meeting.

(2) The Chairman or, in his absence, any member chosen by the members present from among themselves, shall preside at a meeting of the Corporation.

(3) All questions which come before any meeting of the Corporation shall be decided by majority of votes of the members present, and in the case of an equality of votes, the Chairman, or in his absence, any other person presiding, shall have a second or casting vote.

11. All orders and decisions of the Corporation shall be authenticated by the signature of the Chairman or any other member authorised by the Corporation in this behalf, and all other instruments issued by the Corporation shall be authenticated by the signature of the Administrator or any other officer of the Corporation authorised in like manner in this behalf.

Authentication of orders and other instruments of the Corporation.

12. (1) There shall be an Administrator of the Corporation who shall be appointed by the Central Government.

Appointment of Administrator and other officers of the Corporation.

(2) The Administrator shall be the chief executive officer of the Corporation and all other officers of the Corporation shall be subordinate to him.

(3) The Administrator shall have the right to take part in the discussions of the Corporation or of any of its committees but shall not have the right to vote at the meetings of the Corporation or of any of its committees:

Provided that when one of the members of the Corporation is appointed under sub-section (1) as the Administrator, such Administrator shall have all the rights and privileges of a member.

(4) The Corporation may appoint such other officers as it may consider necessary for the efficient performance of its functions under this Act.

CHAPTER III

POWERS AND FUNCTIONS OF THE CORPORATION

General duty
of the Cor-
poration.

13. It shall be the general duty of the Corporation to carry on and promote trade, business and industry in Faridabad, to assist in the rehabilitation of displaced persons settled therein and to manage and develop the property of the Union vested in the Corporation.

Powers of
the Cor-
poration.

14. (1) The Corporation may exercise all such powers as may be necessary or expedient for the purpose of carrying out its functions under this Act.

(2) Without prejudice to the generality of the foregoing provision, such power shall include the power—

(a) to acquire and hold such property, both movable and immovable, as the Corporation may deem necessary for efficiently performing its functions under this Act and to make improvements in such property and to transfer by way of sale, lease or otherwise any such property;

(b) to carry on or promote any trade, business or industry;

(c) to give financial or other assistance to persons to enable them to carry on trade, business or industry in Faridabad primarily with a view to providing employment to, and rehabilitating, displaced persons settled therein;

(d) to construct or cause to be constructed residential or other buildings and to sell or let such buildings or cause them to be sold or let, on such terms as may be prescribed;

(e) to advance loans on such terms and for such purposes as may be prescribed;

(f) to supply or cause to be supplied, in accordance with the law for the time being in force, electrical energy for domestic and industrial purposes at reasonable rates;

(g) to take such other measures as the Corporation may deem necessary for the rehabilitation of displaced persons settled in Faridabad;

(h) to take such steps as may be necessary for improving the economic and social conditions of the inhabitants of Faridabad.

(3) Nothing in this section shall affect the exercise of any power or the performance of any function by any local authority having jurisdiction in Faridabad.

15. All non-recurring expenditure incurred by the Central Government or the body known as the Faridabad Development Board for and in connection with the development of Faridabad or for any of the purposes referred to in this Act upto the date of the establishment of the Corporation and declared to be capital expenditure by the Central Government shall be treated as the capital provided by the Central Government to the Corporation. Capital of the Corporation.

16. The Central Government may, after due appropriation made by Parliament by law in this behalf, make such grants and advance such loans to the Corporation as the Central Government may deem necessary for the performance of the functions of the Corporation under this Act; and all grants made and all loans advanced shall be on such terms and conditions as the Central Government may determine. Grants and loans to the Corporation.

17. All property, assets and funds owned or acquired by the Central Government or purporting to have been owned or acquired by the body known as the Faridabad Development Board for the purposes of the development of Faridabad or for any of the purposes referred to in this Act before the establishment of the Corporation shall, on such establishment, vest in the Corporation unless the Central Government otherwise directs in respect of any part of such property, assets or funds. Vesting of property in the Corporation.

18. The Corporation shall repay, at such intervals and on such terms as the Central Government may determine, the amount of capital provided under section 15 and all loans advanced under section 16 with interest at such rate as may, from time to time, be fixed by that Government and such repayment of capital or loan or payment of interest shall be deemed to be part of the expenditure of the Corporation. Repayment of capital and loan with interest.

19. (1) All rights, liabilities and obligations of the Central Government which, whether arising out of any contract or otherwise, were acquired or incurred by it in connection with any transaction for the development of Faridabad or for any of the purposes referred to in this Act before the establishment of the Corporation, Corporation to have rights and liabilities of the Central Government in certain cases.

shall be deemed to have been acquired or incurred by the Corporation and shall be the rights, liabilities and obligations, respectively, of the Corporation.

(2) All suits or other legal proceedings instituted or which might but for the issue of the notification under sub-section (1) of section 3 have been instituted by or against the Central Government may be continued or instituted by or against the Corporation.

Fund of the Corporation.

20. (1) The Corporation shall have its own Fund and all receipts of the Corporation shall be carried thereto and all payments by the Corporation shall be made therefrom.

(2) All moneys belonging to the Fund shall be deposited in such bank or invested in such manner as may be decided by the Corporation.

Provision for depreciation and reserve and other funds.

21. (1) The Corporation shall make such provision for depreciation and for reserve and other funds as the Central Government may from time to time direct.

(2) The management of these funds, the sums to be carried from time to time to the credit thereof and the application of the moneys comprised therein shall be determined in accordance with such directions as the Central Government may from time to time issue.

Power of the Corporation to spend.

22. The Corporation shall have power to spend such sums as it thinks fit for performing its functions under this Act, and such sums shall be treated as expenditure payable out of the Fund of the Corporation.

Budget.

23. The Corporation shall prepare, in such form and at such time each year as may be prescribed, a budget in respect of every financial year next ensuing showing the estimated receipts and expenditure, and copies thereof shall be forwarded to the Central Government.

Annual report.

24. The Corporation shall prepare in such form and at such time each year as may be prescribed an annual report giving a true and full account of its activities during the previous financial year and copies thereof shall be sent to the Central Government and the Government of the State of Punjab.

Accounts and audit.

25. (1) The Corporation shall cause to be maintained such books of account and other books in relation to its accounts in such form and in such manner as may be prescribed.

(2) The accounts of the Corporation shall be audited at such times and in such manner as may be prescribed.

26. (1) Notwithstanding anything contained in any other law, where a loan has been advanced to any person for the construction of a building or where a building has been transferred to any person, the amount due to the Corporation on account of the loan or transfer together with interest thereon shall be a first charge on the building so constructed or transferred.

Amount due to the Corporation to be first charge.

(2) The Corporation may also take such further security as it may consider necessary for advancing any loan or for transferring any building.

CHAPTER V

MISCELLANEOUS

27. For the purposes of this Act, the Central Government may, from time to time, give to the Corporation such general or special directions as the Central Government thinks fit and in the performance of the functions, the Corporation shall comply with such directions.

28. The Corporation shall furnish to the Central Government such returns, statistics, accounts and other information with respect to its property or activities as the Central Government may from time to time require.

Returns and reports

29. When any money is due to the Corporation from any person, then, without prejudice to any other mode of recovery, the Corporation may, after giving that person an opportunity of being heard, issue a certificate to the Collector of the amount due and the Collector shall proceed to recover that amount in the same manner as an arrear of land revenue.

Mode of recovery of moneys due to the Corporation

30. The Corporation may, by general or special order in writing, delegate to the Chairman or any other member or any officer of the Corporation, subject to such conditions and limitations (if any) as may be specified in the order, such of its powers and duties under this Act as it may deem necessary for the efficient running of the day-to-day administration of the Corporation.

Delegation of powers

31. All members and officers of the Corporation shall, when acting or purporting to act in pursuance of any of the provisions of this Act, be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

Members and officers of the Corporation to be public servants.

32. It is hereby declared that the office of the member of the Corporation shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

Removal of disqualification for membership of Parliament.

Bar of legal proceedings.

33. No suit or other legal proceedings shall lie against any member or officer of the Corporation in respect of anything which is in good faith done or intended to be done in pursuance of this Act.

Validation of certain transactions.

34. On the establishment of the Corporation under section 3,—

(a) all action purporting to have been taken, and all transactions purporting to have been made, by or with the body known as the Faridabad Development Board (including any action or transaction by which any property, asset or right was purported to have been acquired or any liability or obligation, whether by contract or otherwise, was purported to have been incurred) shall be deemed to have been validly and lawfully taken or made by or with the Corporation as if this Act were in force and the Corporation were in existence on the day on which such action was taken or transaction was made; and

(b) in particular, and without prejudice to the generality of the foregoing provision,—

(i) all property and assets vesting in the body known as the Faridabad Development Board shall vest in the Corporation;

(ii) all rights, liabilities and obligations of the body known as the Faridabad Development Board, whether arising out of any contract or otherwise, shall be the rights, liabilities and obligations, respectively, of the Corporation; and

(iii) all leases granted by, all contracts made with, and all instruments executed on behalf of, the body known as the Faridabad Development Board shall be deemed to have been granted by, made with, or executed on behalf of, the Corporation and shall have effect accordingly.

Power to remove difficulties.

35. If any doubt or difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, make such provision or give such direction, not inconsistent with the provisions of this Act, as may appear to it to be necessary or expedient for the removal of the doubt or difficulty, and the order of the Central Government, in such cases, shall be final.

Power to make rules.

36. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the term of office and other conditions of service of members;

(b) the terms and conditions of service of the Administrator and other officers of the Corporation;

(c) meetings of the Corporation and the procedure for conducting business thereat;

(d) the intervals at which, and the terms on which, the capital provided or loan advanced by the Central Government to the Corporation may be repaid, and the rate at which interest may be paid on the capital provided or loan advanced by the Central Government;

(e) the form and manner in which the budget and the annual report may be prepared;

(f) the manner in which the accounts of the Corporation may be maintained and audited;

(g) the form and manner in which returns, statistics, accounts and other information may be furnished to the Central Government;

(h) any other matter which has to be, or may be, prescribed under this Act.

(3) All rules made under this section shall, as soon as may be after they are made, be laid before both Houses of Parliament.

THE SCHEDULE

[See section 2 (c)]

Faridabad is included within the following boundaries, namely:— Area of
Faridabad.

North—Karkhana garden, Railway Station and Rest House, Faridabad, buildings belonging to Shrimati Sushila Devi and abadi Fctehpur Chandela.

East—Delhi—Mathura Road.

South—Abadi village Majasar.

West—Badkhal Band; Hill of villages Dabwa, Nawadah Koh and Daulatabad; Abadi village Saran.

THE ADMINISTRATION OF EVACUEE PROPERTY (AMENDMENT) ACT, 1956

No. 91 OF 1956

[28th December, 1956]

An Act further to amend the Administration of Evacuee Property Act, 1950.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Administration of Evacuee Property (Amendment) Act, 1956.

(2) It shall be deemed to have come into force on the twenty-second day of October, 1956.

Amendment
of section 6.

2. In section 6 of the Administration of Evacuee Property Act, 1950 (hereinafter referred to as the principal Act),—

31 of 1950

(a) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) The Central Government may, by notification in the Official Gazette, appoint for any State a Custodian and as many Additional, Deputy or Assistant Custodians of Evacuee Property as may be necessary for the purpose of discharging the duties imposed on the Custodian by or under this Act, and the same person may be appointed as the Custodian, or as the case may be, Additional, Deputy or Assistant Custodian of Evacuee Property for two or more States.”;

(b) in sub-section (3),—

(i) for the words “State Government”, the words “Central Government” shall be substituted;

(ii) the following proviso shall be inserted at the end, namely:—

“Provided that nothing in this sub-section shall be deemed to empower the Custodian to question any order made by an Additional, Deputy or Assistant Custodian in respect of any matter which the Additional, Deputy or Assistant Custodian is empowered by or under this Act to determine.”.

3. In sub-section (3) of section 3, sub-section (3) of section 15, **Amendment of sections 8, 15, 38 and 51.** section 38 and sub-section (1) of section 51, of the principal Act, for the words “State Government”, wherever they occur, the words “Central Government” shall be substituted.

4. In section 10 of the principal Act, in sub-section (2),—

Amendment of section 10.

(a) clauses (f), (g), (h), (k) and (p) and the proviso to clause (q) shall be omitted;

(b) in clause (m), the words “or of any amounts due to any employee of the evacuee or of any debt due by the evacuee to any person” shall be omitted.

5. In section 11 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:— **Amendment of section 11.**

“(1) Where any evacuee property which has vested in the Custodian is property in trust for a public purpose of a religious or charitable nature, it shall be lawful for the Central Government, notwithstanding anything contained in the instrument of trust or any law for the time being in force, to appoint, by general or special order, new trustees in place of the evacuee trustees and the property shall remain vested in the Custodian only until such time as the new trustees are so appointed; and pending the appointment of such new trustees the trust property and the income thereof shall be applied by the Custodian for fulfilling, as far as possible, the purpose of the trust.”.

6. In section 16 of the principal Act, for sub-sections (1), (2) and (2A), the following sub-sections shall be substituted, namely:— **Amendment of section 16.**

“(1) Subject to such rules as may be made in this behalf, any evacuee or any person claiming to be an heir of an evacuee may apply to the Central Government or to any person authorised by the Central Government in this behalf (hereinafter in this section referred to as the authorised person) that any evacuee property which has vested in the Custodian and to which the

applicant would have been entitled if this Act were not in force, may be restored to him.

(2) On receipt of an application under sub-section (1), the Central Government or the authorised person, as the case may be, shall cause public notice thereof to be given in the prescribed manner, and after causing an inquiry into the claim to be held in such manner as may be prescribed, shall—

(a) if satisfied—

(i) that the conditions prescribed by rules made in this behalf have been satisfied;

(ii) that the evacuee property is the property of the applicant; and

(iii) that it is just or proper that the evacuee property should be restored to him;

make an order restoring the property to the applicant, or

(b) if not so satisfied, reject the application:

Provided that where the application is rejected on the ground that the evacuee property is not the property of the applicant, the rejection of the application shall not prejudice the right of the applicant to establish his title to the property in a civil court, or

(c) if there is any doubt with respect to the title of the applicant to the property, refer him to a civil court for the determination of his title:

Provided that no order for the restoration of any evacuee property shall be made under this sub-section unless provision has been made in the prescribed manner for the recovery of any amount due to the Custodian in respect of the property or the management thereof.”

Amendment
of section 24.

7. In section 24 of the principal Act, for sub-section (1), the following sub-sections shall be substituted, namely:—

“(1) Any person aggrieved by an order made under section 7, section 40 or section 48 may prefer an appeal—

(a) to the Custodian, where the original order has been passed by a Deputy or Assistant Custodian and the amount or the value of the property which is the subject-matter of the order does not exceed two thousand rupees;

(b) to the Custodian-General, in any other case,

(1A) An appeal shall lie to the Custodian-General from any order made on appeal by the Custodian under clause (a) of sub-section (1) on the ground that the order is contrary to law.

(1B) An appeal under this section shall be made in such manner and within such time as may be prescribed.”.

8. Sections 25, 26, 29, 30, 31, 33, 35, 42 and sub-section (2) of section 55 of the principal Act shall be omitted.

Omission of sections 25, 26, 29, 30, 31, 33, 35, 42 and 55 (2).

9. In section 27 of the principal Act,—

Amendment of section 27.

(a) in sub-section (1), the words “district Judge or” shall be omitted;

(b) sub-sections (1A), (2) and (3) shall be omitted.

10. In section 28 of the principal Act, the words “district Judge” shall be omitted.

Amendment of section 28.

11. In section 40 of the principal Act,—

Amendment of section 40.

(a) in sub-section (2), in clause (b), the words “or does not leave” shall be omitted;

(b) sub-section (8) shall be omitted.

12. For section 48 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 48.

“48. (1) Any sum payable to the Government or to the Custodian in respect of any evacuee property, under any agreement, express or implied, lease or other document or otherwise howsoever, may be recovered in the same manner as an arrear of land revenue.

Recovery of certain sums as arrears of land revenue.

(2) If any question arises whether a sum is payable to the Government or to the Custodian within the meaning of sub-section (1), the Custodian shall, after making such inquiry as he may deem fit, and giving to the person by whom the sum is alleged to be payable an opportunity of being heard, decide the question; and the decision of the Custodian shall, subject to any appeal or revision under this Act, be final and shall not be called in question by any court or other authority.

(3) For the purposes of this section, a sum shall be deemed to be payable to the Custodian notwithstanding that its recovery

is barred by the Indian Limitation Act, 1908, or any other law ^{9 of 1908.} for the time being in force relating to limitation of actions.”.

Amendment
of section 56.

13. In section 56 of the principal Act, in sub-section (2),—

(a) sub-clause (o) shall be omitted;

(b) for sub-clause (s), the following sub-clauses shall be substituted, namely:—

“(s) the terms and conditions of service of the Custodian and other officers appointed under this Act and for the furnishing of security by them;

(t) the work to be performed by the Custodian, and the Additional, Deputy or Assistant Custodians;

(u) the delegation of powers of the Custodian to the Additional, Deputy or Assistant Custodians;

(v) the fees payable to the Custodian for the management and disposal of any property vested in him and the manner in which such fees shall be paid;

(w) the persons by whom and the time at which books of accounts maintained under this Act may be inspected and audited;

(x) any other matter which has to be or may be prescribed under this Act.”;

(c) sub-section (3) shall be omitted.

Certain ap-
pointments,
orders and
rules to con-
tinue in
force.

14. Any appointment or order made under section 6, and any rule made under sub-section (3) of section 56 of the principal Act before the commencement of this Act which is in force at such commencement shall be deemed to have been made by the Central Government and shall continue in force accordingly until and unless it is superseded by any appointment, order or rule made under section 6, or, as the case may be, section 56 of the principal Act, as amended by this Act.

Provision of
section 24 to
apply in
respect of all
appeals.

15. The provisions of sub-section (1) of section 24 of the principal Act, as substituted by section 7 of this Act, shall apply to all appeals instituted after the commencement of this Act.

5 of 1956. 16. (1) The Administration of Evacuee Property (Amendment) Ordinance, 1956, is hereby repealed. Repeal and saving.

(2) Notwithstanding such repeal, anything done or any action taken in the exercise of any powers conferred by or under the said Ordinance shall be deemed to have been done or taken in the exercise of the powers conferred by or under this Act, as if this Act were in force on the date on which such thing was done or action was taken.

THE TERRITORIAL ARMY (AMENDMENT) ACT, 1956

No. 92 of 1956

[28th December, 1956]

An Act further to amend the Territorial Army Act, 1948.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

1. This Act may be called the Territorial Army (Amendment) Act, 1956. Short title.

56 of 1948. 2. In section 2 of the Territorial Army Act, 1948 (hereinafter referred to as the principal Act), after clause (d), the following clause shall be inserted, namely:— Amendment of section 2.

‘(dd) “public utility service” means any undertaking which supplies power, light, gas or water to the public, or carries on a public transport, or maintains any system of public conservancy or sanitation and which is declared, by notification in the Official Gazette, by the Central Government to be a public utility service to which this Act applies:

Provided that no such notification shall be issued unless the Central Government is satisfied that, having regard to the needs of the Territorial Army, the persons employed in any such public utility service should, in the public interest, be made compulsorily liable for service in that Army under this Act.’

Insertion of
new section
6A.

3. After section 6 of the principal Act, the following section shall be inserted, namely:—

Liability
certain per-
sons for
compulsory
service in
the Terri-
torial Army.

“6A. (1) Without prejudice to the provision contained in section 6, every person employed under the Government or in a public utility service who has attained the age of twenty years but has not completed the age of forty years shall, subject to the other provisions contained in this section and subject to such rules as may be made in this behalf, be liable, when so required to do, to perform service in the Territorial Army.

(2) Where it appears to the prescribed authority that, having regard to the strength of the Territorial Army or of any unit thereof in any area or place or, having regard to the exigencies of service in the Territorial Army, it is necessary that persons compulsorily liable to perform service in the Territorial Army under sub-section (1) should be called upon for such service, the prescribed authority may call upon such number of persons as he thinks fit for the purpose of performing service in the Territorial Army.

(3) In requisitioning the services of any persons under sub-section (2), the prescribed authority shall have regard to the age, physical fitness, qualifications and experience of the persons to be called upon for service and the nature of the work previously performed by them while employed under the Government or in the public utility service, and the work to be performed by them in the Territorial Army.

(4) Every person liable to perform service under sub-section (1) shall, if so required by the prescribed authority, be bound to fill up such forms as may be prescribed and sign and lodge them with the prescribed authority within such time as may be specified in the requisition.

(5) The prescribed authority may require any person in-charge of the management of a public utility service to furnish within such time as may be specified in the requisition such particulars as may be prescribed with respect to persons employed under him, who may be liable to perform service under sub-section (1).

(6) Any person whose services are requisitioned under this section may be required to join the Territorial Army as an officer or as an enrolled person according to the rules made in this behalf by the Central Government, and where any person has so joined the Territorial Army, he shall be entitled to the same rights and privileges and be subject to the same liabilities as an officer or enrolled person under the provisions of this Act.

Explanation.—For the purposes of this section, the expression “person employed under the Government or in a public utility service” shall not include—

- (a) a woman;
- (b) a member of the regular Army, the Navy or the Air Force or a member of any Reserve Force;
- (c) a person who is not a citizen of India;
- (d) a person employed under the Government in any country or place outside India for so long as he is so employed; and
- (e) any other persons as may be exempted from the operation of this Act by the Central Government, by notification in the Official Gazette, on the ground that, having regard to the nature of the service performed by such persons or to the exigencies of the service in which they are employed, it is, in the opinion of the Central Government, expedient in the public interest that they should not be liable to perform service under this Act.”.

4. After section 10 of the principal Act, the following section shall be inserted, namely:—

Insertion of
new section
10A.

“10A. If any person fails without sufficient cause—

Punishment
for failure to
lodge forms
duly filled
up, etc.

(a) to comply with any requisition under sub-section (4) or sub-section (5) of section 6A, or

(b) to report himself for service when so required to do by the prescribed authority under sub-section (2) of that section, or

(c) to submit himself to medical or other examination when so called upon to do by the prescribed authority under rules made under this Act,

he shall be punishable with imprisonment which may extend to three months, or with fine which may extend to two hundred rupees, or with both.”.

5. In sub-section (2) of section 14 of the principal Act—

Amendment
of section
14.

(a) clause (a) shall be re-lettered as clause (aaa) and in that clause as so re-lettered the words “or may be required to perform compulsory service in the Territorial Army;” shall be added at the end; and

(b) before that clause as so re-lettered, the following clauses shall be inserted, namely:—

“(a) prescribe the form under sub-section (4) of section 6A, the particulars that should be furnished therein and the authority with which, and the period within which, the form should be lodged;

(aa) prescribe the procedure for requiring persons liable for compulsory service in the Territorial Army to be medically or otherwise examined with a view to determining whether they satisfy the conditions imposed under this Act;”.

THE YOUNG PERSONS (HARMFUL PUBLICATIONS) ACT, 1956

No. 93 OF 1956

[28th December, 1956]

An Act to prevent the dissemination of certain publications harmful to young persons

Be it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title,
extent and
commence-
ment.

1. (1) This Act may be called the Young Persons (Harmful Publications) Act, 1956.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Definitions.

2. In this Act,—

(a) “harmful publication” means any book, magazine, pamphlet, leaflet, newspaper or other like publication which consists of stories told with the aid of pictures or without the aid of pictures or wholly in pictures, being stories portraying wholly or mainly—

(i) the commission of offences; or

(ii) acts of violence or cruelty; or

(iii) incidents of a repulsive or horrible nature;

in such a way that the publication as a whole would tend to corrupt a young person into whose hands it might fall, whether by inciting or encouraging him to commit offences or acts of violence or cruelty or in any other manner whatsoever;

- (b) "State Government" in relation to a Union territory, means the administrator thereof;
- (c) "young person" means a person under the age of twenty years.

3. (1) If a person—

Penalty for
sale, etc., of
harmful
publications.

- (a) sells, lets to hire, distributes, publicly exhibits or in any manner puts into circulation, any harmful publication, or
- (b) for purposes of sale, hire, distribution, public exhibition or circulation, prints, makes or produces or has in his possession any harmful publication, or
- (c) advertises or makes known by any means whatsoever that any harmful publication can be procured from or through any person,

he shall be punishable with imprisonment which may extend to six months, or with fine, or with both.

(2) On a conviction under this section, the court may order the destruction of all the copies of the harmful publication in respect of which the conviction was had and which are in the custody of the court or remain in the possession or power of the person convicted.

4. (1) The State Government may, if it is of opinion after consultation with the principal law officer of the State, whether called the Advocate-General or by any other name, that any publication is a harmful publication, declare, by order notified in the Official Gazette, that every copy of such publication shall be forfeited to the Government and every such notification shall state the ground for the order.

Power of
Government
to declare
harmful
publications
forfeited.

(2) Without prejudice to the provisions contained in sub-section (1) of section 6, where there is an order of forfeiture under sub-section (1) in respect of any publication it shall be lawful for any police officer to seize the same wherever found in the territories to which this Act extends.

5. Any person aggrieved by an order of forfeiture passed by the State Government under section 4 may, within sixty days of the date of such order, apply to the High Court to set aside such order, and upon such application the High Court may pass such order as it deems fit.

Appeal to
High Court
against order
of forfeiture.

6. (1) Any police officer or any other officer empowered in this behalf by the State Government may seize any harmful publication.

Power to
seize and
destroy
harmful
publications.

(2) Any magistrate of the first class may, by warrant, authorise any police officer not below the rank of sub-inspector to enter and search any place where any stock of harmful publications may be or may be reasonably suspected to be, and such police officer may seize any publication found in such place if in his opinion it is a harmful publication.

(3) Any publication seized under sub-section (1) shall be produced, as soon as may be, before a magistrate of the first class, and any publication seized under sub-section (2) shall be produced, as soon as may be, before the court which issued the warrant.

(4) If in the opinion of the magistrate or court such publication is a harmful publication, the magistrate or court may cause it to be destroyed, but if, in the opinion of the magistrate or court, such publication is not a harmful publication, the magistrate or court shall dispose of it in the manner provided in sections 523, 524 and 525 of the Code of Criminal Procedure, 1898.

5 of 1898.

Offences
under this
Act to be
cognizable.

7. Notwithstanding anything contained in the Code of Criminal Procedure, 1898, any offence punishable under this Act shall be 5 of 1898.
cognizable.

THE EMPLOYEES' PROVIDENT FUNDS (AMENDMENT) ACT, 1956

No. 94 of 1956

[28th December, 1956]

An Act further to amend the Employees' Provident Funds Act, 1952.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Employees' Provident Funds (Amendment) Act, 1956.

Amendment
of section 1.

2. For sub-section (3) of section 1 of the Employees' Provident Funds Act, 1952 (hereinafter referred to as the principal Act), the 19 of 1952.
following sub-section shall be substituted, namely:—

“(3) Subject to the provisions contained in section 16, it applies—

(a) to every establishment which is a factory engaged in any industry specified in Schedule I and in which fifty or more persons are employed, and

(b) to any other establishment employing fifty or more persons or class of such establishments which the Central

Government may, by notification in the Official Gazette, specify in this behalf:

Provided that the Central Government may, after giving not less than two months' notice of its intention so to do, by notification in the Official Gazette, apply the provisions of this Act to any establishment employing such number of persons less than fifty as may be specified in the notification."

3. In sub-section (4) of section 1, clauses (f) and (fff) of section 2, sections 5, 8, 11, 12, 13, 15, 16, 17 and clauses (ii) and (iii) of section 19A of the principal Act, for the words "factory", "a factory" and "factories" wherever they occur, the words "establishment", "an establishment" and "establishments" respectively shall be substituted.

Substitution of 'establishment', 'an establishment' and 'establishments' for 'factory', 'a factory' and 'factories'.

4. In section 2 of the principal Act,—

Amendment of section 2.

(a) for clause (a), the following clause shall be substituted, namely:—

'(a) "appropriate Government" means—

(i) in relation to an establishment which is a factory engaged in a controlled industry, or a mine or an oil field, the Central Government, and

(ii) in relation to any other establishment, the State Government;';

(b) for clause (e), the following clause shall be substituted, namely:—

'(e) "employer" means—

(i) in relation to an establishment which is a factory, the owner or occupier of the factory, including the agent of such owner or occupier, the legal representative of a deceased owner or occupier and, where a person has been named as a manager of the factory under clause (f) of sub-section (1) of section 7 of the Factories Act, 1948, the person so named; and

(ii) in relation to any other establishment, the person who, or the authority which, has the ultimate control over the affairs of the establishment, and where the said affairs are entrusted to a manager, managing director or managing agent, such manager, managing director or managing agent;'

Substitution
of new
section for
section 3.

Power to ap-
ply Act to an
establish-
ment which
has a com-
mon provi-
dent fund
with another
establish-
ment.

Amendment
of section
19A.

5. For section 3 of the principal Act, the following section shall be substituted, namely:—

“3. Where immediately before this Act becomes applicable to an establishment there is in existence a provident fund which is common to the employees employed in that establishment and employees in any other establishment, the Central Government may, by notification in the Official Gazette, direct that the provisions of this Act shall also apply to such other establishment.”

6. In section 19A of the principal Act, for clause (i), the following clauses shall be substituted, namely:—

“(i) whether an establishment which is a factory, is engaged in any industry specified in Schedule I;

(ia) whether any particular establishment is an establishment falling within the class of establishments to which this Act applies by virtue of a notification under clause (b) of subsection (3) of section 1.”.

THE BANKING COMPANIES (AMENDMENT) ACT, 1956

No. 95 of 1956

[28th December, 1956]

An Act further to amend the Banking Companies Act, 1949.

BE it enacted by Parliament in the Seventh Year of the Republic of India as follows:—

Short title
and com-
mencement.

1. (1) This Act may be called the Banking Companies (Amendment) Act, 1956.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Substitution
of new
section for
section 10.

2. For section 10 of the Banking Companies Act, 1949 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:—

Prohibition
of employ-
ment of
managing
agents and
restrictions
on certain
forms of
employment.

“10. (1) No Banking company—

(a) shall employ or be managed by a managing agent;

or

(b) shall employ or continue the employment of any person—

(i) who is, or at any time has been, adjudicated insolvent, or has suspended payment or has compounded with his creditors, or who is, or has been, convicted by a criminal court of an offence involving moral turpitude;

or

(ii) whose remuneration or part of whose remuneration takes the form of commission or of a share in the profits of the company:

Provided that nothing contained in this clause shall apply to the payment of any bonus by any banking company in pursuance of a settlement or award arrived at or made under any law relating to industrial disputes or in accordance with any scheme framed by such banking company or in accordance with the usual practice prevailing in banking business; or

(iii) whose remuneration is, in the opinion of the Reserve Bank, excessive; or

(c) shall be managed by any person—

(i) who is a director of any other company not being a subsidiary company of the banking company; or

(ii) who is engaged in any other business or vocation; or

(iii) who has a contract with the company for its management for a period exceeding five years at any one time:

Provided that any contract with the company for its management may be renewed or extended for a further period not exceeding five years at a time if and so often as the directors so decide:

Provided further that nothing in this clause shall apply to a director, other than the managing director, of a banking company by reason only of his being such director.

Explanation.—For the purpose of sub-clause (iii) of clause (b), the expression “remuneration”, in relation to a person employed or continued in employment, shall include salary, fees and perquisites but shall not include any allowances or other amounts paid to him for the purpose of reimbursing him in respect of the expenses actually incurred by him in the performance of his duties.

(2) In forming its opinion under sub-clause (iii) of clause (b) of sub-section (1), the Reserve Bank may have regard among other matters to the following:—

(i) the financial condition and history of the banking company, its size and area of operation, its resources, the volume of its business, and the trend of its earning capacity;

(ii) the number of its branches or offices;

(iii) the qualifications, age and experience of the person concerned;

(iv) the remuneration paid to other persons employed by the banking company or to any person occupying a similar position in any other banking company similarly situated; and

(v) the interests of its depositors.

(3) If any question arises in any particular case whether the remuneration is excessive within the meaning of sub-clause (iii) of clause (b) of sub-section (1), the decision of the Reserve Bank thereon shall be final for all purposes."

Substitution
of new
section for
section 12.
Regulation
of paid-up
capital, sub-
scribed capi-
tal and
authorised
capital and
voting rights
of share-
holders.

3. For section 12 of the principal Act, the following section shall be substituted, namely:—

"12. (1) No banking company shall carry on business in India, unless it satisfies the following conditions, namely:—

(i) that the subscribed capital of the company is not less than one-half of the authorised capital, and the paid-up capital is not less than one-half of the subscribed capital and that, if the capital is increased, it complies with the conditions prescribed in this clause within such period not exceeding two years as the Reserve Bank may allow;

(ii) that the capital of the company consists of ordinary shares only or of ordinary shares or equity shares and such preferential shares as may have been issued prior to the 1st day of July, 1944:

Provided that nothing contained in this sub-section shall apply to any banking company incorporated before the 15th day of January, 1937.

(2) No person holding shares in a banking company shall, in respect of any shares held by him, exercise voting rights in excess of five per cent. of the total voting rights of all the shareholders of the banking company.

(3) Notwithstanding anything contained in any law for the time being in force or in any contract or instrument no suit or other proceeding shall be maintained against any person registered as the holder of a share in a banking company on the ground that the title to the said share vests in a person other than the registered holder:

Provided that nothing contained in this sub-section shall bar a suit or other proceeding—

(a) by a transferee of the share on the ground that he has obtained from the registered holder a transfer of the

share in accordance with any law relating to such transfer; or

(b) on behalf of a minor or a lunatic on the ground that the registered holder holds the share on behalf of the minor or lunatic.

(4) Every chairman, managing director or chief executive officer by whatever name called of a banking company shall furnish to the Reserve Bank through that banking company returns containing full particulars of the extent and value of his holding of shares, whether directly or indirectly, in the banking company and of any change in the extent of such holding or any variation in the rights attaching thereto and such other information relating to those shares as the Reserve Bank may, by order, require and in such form and at such time as may be specified in the order.”.

4. After section 12 of the principal Act, the following section shall be inserted, namely:—

Insertion of new section 12 A.

“12A. (1) The Reserve Bank may, by order, require any banking company to call a general meeting of the shareholders of the company within such time, not less than two months from the date of the order, as may be specified in the order or within such further time as the Reserve Bank may allow in this behalf, to elect in accordance with the voting rights permissible under this Act fresh directors, and the banking company shall be bound to comply with the order.

Election of new directors.

(2) Every director elected under sub-section (1) shall hold office until the date up to which his predecessor would have held office, if the election had not been held.

(3) Any election duly held under this section shall not be called in question in any court.”.

5. For section 16 of the principal Act, the following section shall be substituted, namely:—

Substitution of new section for section 16.

“16. (1) No banking company incorporated in India shall have as a director any person who is a director—

Prohibition of common directors.

(i) of any other banking company; or

(ii) of companies which among themselves are entitled to exercise voting rights in excess of twenty per cent. of the total voting rights of all the shareholders of the banking company.

(2) If immediately before the commencement of the Banking Companies (Amendment) Act, 1956, any person holding office as a director of a banking company is also a director of

companies which among themselves are entitled to exercise voting rights in excess of twenty per cent. of the total voting rights of all the shareholders of the banking company he shall, within such period from such commencement as the Reserve Bank may specify in this behalf—

(a) either resign his office as a director of the banking company; or

(b) choose such number of companies as among themselves are not entitled to exercise voting rights in excess of twenty per cent. of the total voting rights of all the shareholders of the banking company as companies in which he wishes to continue to hold the office of a director and resign his office as a director in the other companies.”.

Amendment
of section 27.

6. In section 27 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) The Reserve Bank may at any time direct a banking company to furnish it within such time as may be specified by the Reserve Bank, with such statements and information relating to the business or affairs of the banking company (including any business or affairs with which such banking company is concerned) as the Reserve Bank may consider necessary or expedient to obtain for the purposes of this Act, and without prejudice to the generality of the foregoing power may call for information every half-year regarding the classification of advances and investments of banking companies in respect of industry, commerce and agriculture.”.

Insertion of
new sections
35A and 35B.

Power of the
Reserve Bank
to give direc-
tions.

7. After section 35 of the principal Act, the following sections shall be inserted, namely:—

“35A. (1) Where the Reserve Bank is satisfied that—

(a) in the national interest; or

(b) to prevent the affairs of any banking company being conducted in a manner detrimental to the interests of the depositors or in a manner prejudicial to the interests of the banking company; or

(c) to secure the proper management of any banking company generally;

it is necessary to issue directions to banking companies generally or to any banking company in particular, it may, from time to time, issue such directions as it deems fit, and the banking companies or the banking company, as the case may be, shall be bound to comply with such directions.

(2) The Reserve Bank may, on representation made to it or on its own motion, modify or cancel any direction issued under sub-section (1), and in so modifying or cancelling any direction may impose such conditions as it thinks fit, subject to which the modification or cancellation shall have effect.

35B. (1) In the case of a banking company—

(a) no amendment of any provision relating to the appointment or re-appointment or remuneration of a managing or whole-time director or of a director not liable to retire by rotation or of a manager or a chief executive officer by whatever name called, whether that provision be contained in the company's memorandum or articles of association, or in an agreement entered into by it, or in any resolution passed by the company in general meeting or by its Board of directors shall have effect unless approved by the Reserve Bank;

Amendment of provisions relating to appointments of managing directors, etc. to be subject to previous approval of the Reserve Bank.

(b) no appointment or re-appointment of a managing or whole-time director, manager or chief executive officer by whatever name called, shall have effect unless such appointment or re-appointment is made with the previous approval of the Reserve Bank.

(2) Nothing contained in sections 268, 269, 310, 311 and 388 (in so far as section 388 makes the provisions of sections 310 and 311 apply in relation to the manager of a company) of the Companies Act, 1956, shall apply to a banking company after the commencement of the Banking Companies (Amendment) Act, 1956.

1 of 1956.

(3) No act done by a person as a managing or whole-time director or a director not liable to retire by rotation or a manager or a chief executive officer by whatever name called, shall be deemed to be invalid on the ground that it is subsequently discovered that his appointment had not taken effect by reason of any of the provisions of this Act; but nothing in this sub-section shall be construed as rendering valid any act done by such person after his appointment has been shown to the banking company not to have had effect."

8. In section 36 of the principal Act, in sub-section (1), for clause (d), the following clause shall be substituted, namely:—

Amendment of section 36.

"(d) during the course, or after the completion, of any inspection of a banking company under section 35, by order in writing and on such terms and conditions as may be specified therein—

(i) require the banking company to call a meeting of its directors for the purpose of considering any matter

relating to or arising out of the affairs of the banking company, or require an officer of the banking company to discuss any such matter with an officer of the Reserve Bank;

(ii) depute one or more of its officers to watch the proceedings at any meeting of the Board of directors of the banking company or of any committee or of any other body constituted by it; require the banking company to give an opportunity to the officers so deputed to be heard at such meetings and also require such officers to send a report of such proceedings to the Reserve Bank;

(iii) require the Board of directors of the banking company or any committee or any other body constituted by it to give in writing to any officer specified by the Reserve Bank in this behalf at his usual address all notices of, and other communications relating to, any meeting of the Board, committee or other body constituted by it;

(iv) appoint one or more of its officers to observe the manner in which the affairs of the banking company or of its offices or branches are being conducted and make a report thereon;

(v) require the banking company to make, within such time as may be specified in the order, such changes in the management as the Reserve Bank may consider necessary in consequence of the state of affairs disclosed during or by the inspection."

Amendment
of section 45

9. In section 46 of the principal Act,—

(i) in sub-section (1), for the word "required", the words "or in any information required or furnished" shall be substituted; and

(ii) in sub-section (4), after the words "any order", the words "or direction" shall be inserted.

Insertion of
new section
46A.

10. After section 46 of the principal Act, the following section shall be inserted, namely:—

Chairman,
director, etc.
to be public
servants for
the purposes
of Chapter
IX of the
Indian Penal
Code.

"46A. Every chairman, director, auditor, liquidator, manager and any other employee of a banking company shall be deemed to be a public servant for the purposes of Chapter IX of the Indian Penal Code."

45 of 1860.

Amendment
of section 49.

11. In section 49 of the principal Act, for the words and figures "sections 17, 77, 83B, 86H, 91B, 91D and sub-section (5) of section

144 of the Indian Companies Act, 1913 (VII of 1913)", the following shall be substituted, namely:—

"sections 90, 165 and 255, clauses (a) and (b) of sub-section (1) of section 293 and sections 300 and 416 of the Companies Act, 1956".

r of 1956.

12. In section 50 of the principal Act, for the words, brackets, figures and letter "contained in sections 10 and 16 or by reason of the compliance by a banking company with any order given to it under sub-clause (ii) of clause (d) of sub-section (1) of section 36" the following shall be substituted, namely:—

Amendment of section 50.

"contained in sections 10, 12A, 16, 35A, 35B and 36 or by reason of the compliance by a banking company with any order or direction given to it under this Act".

13. In section 51 of the principal Act, for the word and figures "34 to 36", the following shall be substituted, namely:—

Amendment of section 51.

"34, 35, 36 (excluding clause (d) of sub-section (1)).".

14. The principal Act shall be further amended in the manner specified in the Schedule:

Other miscellaneous amendments.

Provided that the amendments specified in the Schedule relating to section 2 and to the sections contained in Part III and Part IIIA of the principal Act shall not apply to a banking company the winding up of which commenced before the 1st day of April, 1956, and the provisions of the principal Act shall apply to such banking company as if the amendments aforesaid had not been made.

THE SCHEDULE

(See section 14)

OTHER MISCELLANEOUS AMENDMENTS IN THE BANKING COMPANIES Act, 1949.

1. In sections 2 and 5, for "Indian Companies Act, 1913 (VII of 1913)" and "Indian Companies Act, 1913", substitute "Companies Act, 1956".

2. In section 7, for "section 26 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 25 of the Companies Act, 1956".

3. In section 11, for "section 103 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 149 of the Companies Act, 1956".

4. In section 13, for "sections 105 and 105A of the Indian Companies Act, 1913 (VII of 1913)", substitute "sections 76 and 79 of the Companies Act, 1956".

1 of 1956.

5. In section 17, for the existing *Explanation*, substitute the following *Explanation*, namely:—

"*Explanation*:—The provisions of section 349 of the Companies Act, 1956, shall apply for the purpose of computing net profits under this section as they apply for the purpose of computing net profits under section 348 of the said Act".

1 of 1956.

6. In section 20, for "section 54A of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 77 of the Companies Act, 1956".

1 of 1956.

7. In section 29, for "marked F in the Third Schedule to the Indian Companies Act, 1913 (VII of 1913)", substitute "set out in Part I of Schedule VI to the Companies Act, 1956".

1 of 1956.

8. In section 30, for "section 145 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 227 of the Companies Act, 1956".

1 of 1956.

9. In section 32, for "section 134 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 220 of the Companies Act, 1956".

1 of 1956.

10. In section 35, for "section 138 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 235 of the Companies Act, 1956".

1 of 1956.

11. In section 38—

(i) in sub-section (1), for "section 162 or section 271 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 433 or section 583 of the Companies Act, 1956" and

1 of 1956

(ii) in sub-section (3), for "section 163" substitute "section 434 of the Companies Act, 1956".

1 of 1956.

12. In section 38A omit sub-section (2) and sub-section (3).

13. In section 39, for "section 175 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 448 of the Companies Act, 1956".

1 of 1956.

14. In section 40, for "section 173 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 466 of the Companies Act, 1956".

1 of 1956.

15. In section 41, for "section 177B of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 455 of the Companies Act, 1956".

1 of 1956.

16. In section 42, for "sections 178A and 183 of the Indian Companies Act, 1913 (VII of 1913)", substitute "sections 460, 464 and 465 of the Companies Act, 1956".
1 of 1956.
17. In section 43, for "section 191 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 474 of the Companies Act, 1956".
1 of 1956.
18. In section 43A, for "section 230 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 530 of the Companies Act, 1956".
1 of 1956.
19. In section 44—
(i) for "section 203 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 484 of the Companies Act, 1956"; and
(ii) for "sections 218 and 220", substitute "sections 521 and 441".
1 of 1956.
20. In section 45, for "section 153 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 391 of the Companies Act, 1956".
1 of 1956.
21. In section 45A, for "Indian Companies Act, 1913 (VII of 1913)", substitute "Companies Act, 1956".
1 of 1956.
22. In section 45B, for "section 153 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 391 of the Companies Act, 1956".
1 of 1956.
23. In section 45E—
(i) for "section 184 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 467 of the Companies Act, 1956", and
(ii) for "section 187 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 470 of the Companies Act, 1956".
1 of 1956.
24. In section 45H, in sub-sections (1) and (2), for "section 235 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 543 of the Companies Act, 1956".
1 of 1956.
25. In section 45J, for "Indian Companies Act, 1913 (VII of 1913)", substitute "Companies Act, 1956".
1 of 1956.
26. In section 45K—
(i) in sub-section (1) and in sub-section (3), for "section 153 of the Indian Companies Act, 1913 (VII of 1913)", substitute "section 391 of the Companies Act, 1956"; and
1 of 1956.

(ii) in sub-section (2)—

(a) for “section 153 of the Indian Companies Act, 1913 (VII of 1913)”, substitute “section 391 of the Companies Act, 1956”; and 1 of 1956.

(b) for “section 162 of the Indian Companies Act, 1913 (VII of 1913)”, substitute “section 433 of the Companies Act 1956”. 1 of 1956.

27. In section 45L—

(i) in sub-section (1), for “section 153 of the Indian Companies Act, 1913 (VII of 1913)”, substitute “section 391 of the Companies Act, 1956”; and 1 of 1956.

(ii) in sub-section (2)—

(a) for “section 153 of the Indian Companies Act, 1913 (VII of 1913)”, substitute “section 391 of the Companies Act, 1956”; and 1 of 1956.

(b) for “section 235 of the said Act”, substitute “section 543 of the said Act”.

28. In section 45M, for “section 153 of the Indian Companies Act, 1913 (VII of 1913)”, substitute “section 391 of the Companies Act, 1956”. 1 of 1956.

29. In section 450 in sub-section (2), for “section 235 of the Indian Companies Act, 1913 (VII of 1913)”, substitute “section 543 of the Companies Act, 1956”. 1 of 1956.

K. V. K. SUNDARAM,
Secy. to the Govt. of India.